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C O N F I D E N T I A L MANAMA 001834

SIPDIS

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TAGS: [PTER](#) [ASEC](#) [PREL](#) [BA](#)

SUBJECT: TERROR SUSPECT CASE REFERRED TO CONSTITUTIONAL COURT

Classified By: Ambassador William T. Monroe. Reason: 1.4 (B)(D)

1. (U) The High Criminal Court judge hearing the case of four Bahrain terrorist suspects adjourned their criminal trial for two weeks on December 6 to allow defense lawyers to test the constitutionality of the case with the Constitutional Court. The lawyers argued in court that the article under which the suspects are being tried (Article 157 - conspiracy to commit a crime) is unconstitutional. The judge scheduled the next hearing for December 20. If at that point the defense lawyers bring documentation that they have filed the case with the Constitutional Court, the judge said he will suspend the hearing in his court and wait for the result of the Constitutional Court.

2. (SBU) Constitutional Court Secretary General Fathi Kemichi told the Ambassador he fully expected the Constitutional Court to accept the case. How long it will take the Constitutional Court to consider the case is uncertain. The court was established only recently, has heard only one case so far, and does not have a track record. Kemichi said that it currently has five cases waiting to be heard. He could not predict how quickly the court will get to this case, but indicated it could be a couple of months or more.

3. (U) According to press reports, during the December 6 hearing the defendants complained that there were being kept under heavy surveillance. One of the defense lawyers asked the judge to stop this "harassment" of the defendants, which he said amounted to psychological pressure. The judge declined to act, saying his authority is limited to the court and that he has no authority over what the security forces are doing.

4. (U) Separately, one of the defense lawyers confirmed to us that the six-month sentence for one of the defendants, Yassir Kemal, who was convicted for fleeing the courthouse during a hearing in November, began from the time of his sentencing in mid-November. He thus should remain in prison until May for this offense.

4. (C) Comment: While it is disappointing that the case has not yet proceeded to trial, it was no surprise that it moved on to the Constitutional Court. At a time when Bahraini leadership has been signaling their concern about the lack of evidence and the need to adhere to the rule of law, transferring the case to the Constitutional Court at least has the effect of dragging out the period during which the cloud of legal proceedings -- and surveillance -- hangs over the head of the defendants. And perhaps the worst of the group, Yassir Kemal, will remain in jail for at last another five months.

MONROE